

UNITED STATES DISTRICT COURT  
*for the district of*  
NEW JERSEY

UNITED STATES OF AMERICA

Vs

CASE NO. 21-cr-430- (SDW)

Dr. ALEXANDER BALDONADO

\_\_\_\_\_ /

**MOTION TO DISMISS INDICTMENT FOR  
INEFFECTIVE ASSISTANCE OF COUNSEL**

**FACTS**

As the master docket sheet in this action will show, defendant's "advocate" has done little or nothing to prepare for trial. Instead, defendant's court-appointed counsel has appeared interested in nothing more than a "plea bargain."

Defendant Dr. Alexander Baldonado has been charged in a six-count indictment for Medicare fraud. The charges are complex and requires extensive investigation and research to exonerate Dr. Baldonado. Attorney Linda Foster of the New Jersey Federal Public Defenders has apparently made no attempt whatsoever to determine that Dr. Baldonado is innocent of the crimes charged.

No discovery has been handed over to defendant. Without any discovery, defendant is unable to prepare a defense. The time for defendant to present his discovery has expired. Every time defendant reaches out to communicate with Linda Foster, she is never available, and time continues to go by, and the case just lingers on the Court's docket with no action.

**ARGUMENT**

Defendant Dr. Baldonado is being forced to go to trial with ineffective assistance of counsel in violation of his Sixth Amendment rights.

From the amount of "preparation" that Defendant's counsel has put into defendant's "defense," it is obvious that defendant's counsel has no interest or intention of acting as a vigorous advocate for the defendant. (i.e., it is apparent that defense counsel intends to do as little as possible to defend him).

Because the right to counsel is so fundamental to a fair trial, the Constitution cannot tolerate trials in which counsel, though present in name, is unable to assist the defendant to obtain a fair decision on the merits. *Evitts v Lucey*, 105 S. Ct 860,836 (1985).

Defendant has a right to due process of law. Due process means fundamental fairness. *Hampton v. United States*, 96 S. Ct. 1646, 1652 note 6 (1976).

Ineffective counsel deprives the court of jurisdiction. *United States v. Levine*, 127 F. Supp. 651 (D. Mass. 1955).

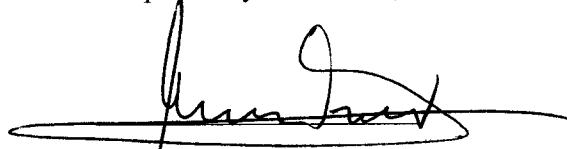
There is a constitutional requirement of effective assistance of counsel: which is reasonably likely to render and does in fact render reasonably effective assistance under the particular facts and circumstances of the case.

Current defense counsel has not met with Dr. Maldonado to review the case, the evidence and any available defenses to the charges. Such dereliction, by Ms. Foster, undermines the defendant's constitutional rights to Due Process and effective assistance of counsel.

The duty to investigate includes a duty to make reasonable investigations or to make a reasonable decision that makes investigations unnecessary. The reasonableness of the decision not to investigate must be judged according to the circumstances of each case, with a heavy measure of the deference given to counsel's judgement.

**WHEREFORE**, defendant, Dr. Baldonado, moves that the relief he requests be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Dr. Alexander Baldonado', is written over a horizontal line.

Dr. Alexander Baldonado-pro se  
5134 Simonson Street  
Elmhurst New York 11373

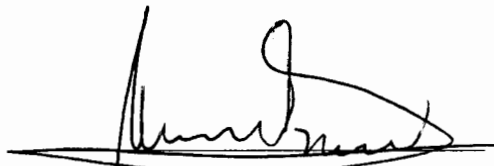
CERTIFICATE OF SERVICE

On September 27, 2021 I, Alexander Baldonado, did place in the US Mail, first class a copy of my Motion to Dismiss for Ineffective Assistance of Counsel and mailed to:

**REBECCA RUTH YUAN**  
U.S. DEPARTMENT OF JUSTICE  
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(202) 262-3520  
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**LINDA D. FOSTER**  
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972 BROAD STREET  
NEWARK, NJ 07102  
(973) 645-6347  
Email: [linda\\_foster@fd.org](mailto:linda_foster@fd.org)

This 27 of September, 2021

A handwritten signature in black ink, appearing to read 'Alexander Baldonado', written over a horizontal line.

Dr. Alexander Baldonado-pro se  
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